

DOCKET NO: 255666US0PCT



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
HANSULRICH REISACHER, ET AL. : EXAMINER: HAILEY, P.
SERIAL NO: 10/501,343 :
FILED: JULY 26, 2004 : GROUP ART UNIT: 1755
FOR: PIGMENT PREPARATIONS :

REPLY BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

The following is a Reply Brief in reply to the Examiner's Answer dated September 7, 2006 (Answer).

Applicants continue to maintain the arguments made in the Appeal Brief. The following is in reply to the Examiner's "Response to Argument" (Answer at 8-10).

Ground (A)

Applicants have already acknowledged that the solid preparation of the present claims is inclusive of water but not in amounts that would render the claimed pigment preparation non-solid. The Examiner finds, in effect, that Gonzalez-Blanco et al's pigment preparation is inclusive of solid preparations, in view of the disclosure of water in a minimum amount of 10% by weight, no explicit disclosure of solid or liquid form, silence as to physical state, and the absence of other disclosure that "the preparations cannot be in any other form," despite Applicants' citation in the Appeal Brief of other portions in Gonzalez-Blanco et al that

further evidence that their preparations are in liquid form (Answer at 8). Applicants continue to maintain that analysis of Gonzalez-Blanco et al, **considered as a whole**, yields only one result, *viz.*, that their pigment preparations are in liquid form.

Regarding Applicants' argument that Gonzalez-Blanco et al neither discloses nor suggests combinations of different classes of dispersants, the Examiner finds that Gonzalez-Blanco et al's "contemplation of more than one of either nonionic or anionic dispersants does not exclude the contemplation of one (or more) of each dispersant, i.e., one nonionic dispersant, and one anionic dispersant" (Answer at 9). In reply, Applicants have responded to this argument in the Appeal Brief at page 5, which is that the question is not what Gonzalez-Blanco et al contemplate, but what they disclose or suggest to persons skilled in the art, which is not, in effect, the combination of different classes of dispersants.

Ground (B)

In response to Applicants' argument that one skilled in the art would not have combined Gonzalez-Blanco et al and Nyssen without the present disclosure as a guide, the Examiner finds that motivation to combine the references "is found not in the individually and respectively disclosed intended uses of the pigment preparations, but on what each pigment preparation contains, and the common components therebetween" (Answer at 9).

In reply, simply because two disparate prior art references, each drawn to a different utility, may each disclose pigment preparations having common components therebetween, does **not**, *ipso facto*, provide the necessary motivation. The only motivation herein is that supplied by Applicants' disclosure, which is clearly improper.

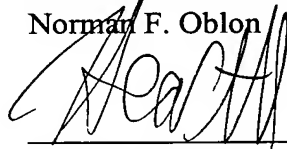
Ground (C)

Regarding the provisional rejection on grounds of non-statutory obviousness-type double patenting, while there may be a "minimal" difference between the presently-required maximum of 10% by weight of the anionic surface-active additive component, and the requirement of a minimum of greater than 10% for the corresponding component in the copending application, nevertheless, the claims of the copending application neither disclose nor suggest **any** modification thereof, let alone adjusting the percentage ranges therein.

Applicants continue to maintain that all of the rejections should be REVERSED.

Respectfully submitted,

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